

CITY COUNCIL MINUTES

June 25, 2012

REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, June 25, 2012 at 6:00 p.m. with Mayor Hanley presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: Keith Nesbitt, J. M. "Mike" Holmes, William W. Kirby, Bridget Powers, Kevin Hanley

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Senior Planner Reg Murray, and Police Officer Victor Pecararo.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

MOTION: Holmes/ Powers/ Unanimously approved

1. Conference with Legal Counsel:

The City Council finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the local agency in the litigation.

A) Pending Litigation:

(G.C. 54956.9(a))

Victoria Connolly, First Amendment Coalition v. City of Auburn, Auburn City Council, Placer County Superior Court Case No. SCV-0031261

B) Existing Litigation:

(G.C. 54956.9(a))

Joseph G. R. Labrie, Auburn City Clerk v. Board of Supervisors for the County of Placer, Jim McCauley, County Clerk-Record-Registrar of Voters (James Earp, Hank Gonzales and California Alliance for Jobs, Real Parties in Interest), Placer County Superior Court Case No. SCV-0030835

2. **Conference with Labor Negotiators:**

(G.C. 54957.6)

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: Auburn Police Officers Association

REPORT OUT OF CLOSED SESSION

Mayor Hanley reported that the City is still in negotiations on the pending litigation case (1a) and there was no reportable action on the existing litigation case (1b). He reported that instructions were provided the labor negotiators (2); with no other reportable action.

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS

Mayor Hanley presented a commendation for "The Monteciello Fire Safe Project" team.

Mayor Hanley presented a proclamation for "Think Auburn First Week" to Cheryl Maki.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

Council Member Holmes requested item 8 be removed from the consent calendar.

1. **Appointment of Technology Commissioner**

By **RESOLUTION 12-69**, appoint Randi Swisley to the Auburn Technology Commission.

2. **Appointment of Historic Design Review Commissioner**

By **RESOLUTION 12-70**, appoint Linda Robinson to the Historic Design Review Commission.

3. **Surplus Equipment**

By **RESOLUTION 12-71**, declare as surplus to the City's needs the equipment listed and direct staff to contract with an auctioneer to assist the City in disposal of equipment or properly dispose of items.

4. **Legal Representation in Labrie v. Board of Supervisors (Earp)**

By **MOTION**, ratify the Porter Scott contract for legal representation.

5. **WWTP Groundwater Monitoring – Professional Service Agreement
BSK Associates**

By **RESOLUTION 12-72**, authorize the Director of Public Works to execute a contract with BSK Associates to perform groundwater monitoring at the Wastewater Treatment Plant.

6. **Amendment of City Ordinance Governing Claims Against the City –
Second Reading**

Waive full reading and adopt an **ORDINANCE 12-02** to amend Section 33.115 of the Auburn Municipal Code regarding claims against the City.

7. **CalPERS Contract Amendment Ordinance – 1959 Survivor Death
Benefit Program (Police)**

Waive full reading and adopt an **ORDINANCE 12-03** to amend the contract between the City of Auburn and CalPERS, providing Section 21754 (Forth Level of Survivor Death Benefits) for local police members.

8. **Agreement for Consulting Services – 2013 Housing Element Update
& SB 244 Implementation (Pacific Municipal Consultants (PMC))**

Removed from consent calendar, see item 8a.

***** End of Consent Calendar *****

By **MOTION**, approve the consent calendar, excluding item 8.

MOTION: Nesbitt/ Holmes/ Approved 5:0

Mayor Hanley congratulated Randi Swisley on her appointment to the Technology Commission. Council Member Nesbitt also spoke in favor of the two commission appointments made on the consent calendar.

8a. **Agreement for Consulting Services – 2013 Housing Element Update
& SB 244 Implementation (Pacific Municipal Consultants (PMC))**

Senior Planner Reg Murray presented this item.

Council Member Holmes asked about the pending legislation regarding SB244.

City Attorney Michael Colantuono advised how the legislation regarding SB244 could impact the city.

By **RESOLUTION 12-73**, authorize the Community Development Director to execute an agreement for consulting services between the City and PMC to prepare the City of Auburn's 2013 Housing Element Update and SB 244 Implementation (contract not to exceed \$28,230).

MOTION: Holmes/ Nesbitt/ Approved 5:0

9. **Public Comment**

No public comment.

PUBLIC HEARINGS

10. **2012/2013 Sewer Assessment to be Placed on the Placer County Tax Roll**

Transit Analyst Megan Siren presented this item.

Mayor Hanley said he disagrees with the rate increase that was previously approved.

By **RESOLUTION 12-74**, authorize the levy of sewer service charges for Fiscal Year 2012-2013 to be placed on the County of Placer Tax Roll.

MOTION: Nesbitt/ Powers/ Approved 4:1 (Hanley voted no)

11. **Auburn Recreation District (ARD) Request for Changes to the Park Impact Mitigation Fee**

Senior Planner Reg Murray presented this item. He said the current park impact mitigation fee is \$1,073.28 and was last updated in 1993. He said the proposed fee that has been approved by the ARD Board is \$6,849. He said it is the discretion of the Council to set the fee anywhere between the existing fee and the proposed fee indentified by the ARD Board. He reviewed the ability to amend fees by CPI on an annual basis, a rate comparison to Placer County, fee study factors, and fee alternatives.

Council Member questions to staff followed regarding: (1) sphere of influence in regards to Regional Park, (2) fee alternatives, (3) Placer County CPI fee adjustment, (4) definition of "mobile home", and (5) effective date of new fees.

Kahl Muscott, District Administrator at ARD, explained park impact mitigation fees being a one time fee paid when a building permit is pulled. He reviewed existing park inventory and a comparison of area park fees.

Council Member questions to ARD staff followed: (1) future master plan of parks, (2) previous fee increase requests by ARD, (3) park maintenance costs, (4) public pool costs, (5) new parks, (6) fees to be used at existing facilities to increase capacity, (7) mitigation fund balance, (8) total park land within the City, and (9) joint use agreements with schools.

Scott Holbrook, Chair of ARD Board of Directors, spoke about the importance of approving the fee proposed by ARD. He spoke about quality of life in the future in regards to parks. He said at the current fee rate, the parks cannot be maintained to the appropriate level.

Curt Smith, Board of Directors of ARD, spoke in favor of the increased fees. He said the fees are crucial to mitigate the impact of new residents. He spoke about the current heavy usage of all Auburn parks.

Joe Fecko, Administrative Services Manager, spoke about the positive impact for the recreation parks with the proposed fee increase.

Bob Snyder, resident of Auburn, spoke about the lack of a direct benefit to the new residents that would have to pay this fee. He spoke about the need for a payment schedule option for a developer to pay these fees. He suggested a lower more reasonable fee than the one proposed by ARD.

Gordon Ainsleigh, Board of Directors ARD, said a lower park impact fee degrades the level of service for the existing residents. He spoke about land value, area comparisons, and the fee study completed. He spoke in favor of the ARD proposed fee.

Richard Sanborn, resident of Auburn, said the fee increase is justified. He said the fees in the City should match the County fees.

Council Member comments followed: (1) useable park land in the City, (2) alternative fee options, (3) expected new dwellings, (4) needed improvements, (5) over usage of parks, (6) development agreement for Baltimore Ravine project, (7) payment schedule, (8) "per unit" price of housing, (9) MOU with ARD allowing for 50% of mitigation fees to be spent outside of the City, (10) "true ratio of parks to residents", (11)

By **RESOLUTION 12-75**, amend the Park Impact Mitigation Fee to be consistent with the park development impact fees proposed in the *Auburn Recreation District Park Development Impact Fee Nexus Study March 2012* excluding only major facility costs: SFR detached (\$5,108); SFR attached (\$3,474); multi-family (\$3,016); Mobile Home (\$3,882).

MOTION: Nesbitt/Kirby/Approved 3:2 (Hanley and Powers voted no)

COUNCIL BUSINESS

12. Operating, Debt Service and Capital Project Budget for Fiscal Year 2012-13 – Final Adoption

Finance Director Andy Heath presented this item. He said the budget was presented at the June 11, 2012 meeting. He said the full budget is available in the City Clerk's office and on the City's website. He said in the last couple weeks two changes have occurred that will impact the budget. He said the CalPERS health premiums increase will be 9.9% as opposed to the 5% originally budgeted. He said the City Clerk's compensation change was also not originally budgeted, and will save the City \$5,000.

Joseph Labrie, City Clerk, said in all of the City's history, the City Clerk compensation has matched the compensation of the entire Council. He said as the City Clerk, he spends more time in the office and at City Council meetings than any other elected City Clerk or the elected City Treasurer. He said he would like the Council to reconsider their action from June 2010 that decreased the City Clerk's compensation.

Council Member Nesbitt spoke about the budgeted funds for the city commissions and committees. He said he would like the Arts Commission budget to be capped at \$7,500 and cap the Economic Development Commission (EDC) at \$6,000. Council Member Kirby said he concurs with these decreases.

Council Member Powers said both the Arts Commission and EDC have been very frugal in the past and are working on projects that benefit the community in various ways. Council Member Holmes spoke in more detail about some of the pending Arts Commission projects and related costs.

Mayor Hanley said he is satisfied with the proposed budgets for committees and commissions as presented.

By **RESOLUTION 12-76**, adopt revenue estimates and expenditure appropriations for all City Funds for fiscal year 2012-13 as summarized in the fund schedules presented with the Fiscal Year 2012-13 Proposed Budget.

By **RESOLUTION 12-77**, establish a General Fund "cash reserve" in the amount of \$2,839,065 as summarized in the General Fund schedule presented with the Fiscal Year 2012-13 Proposed Budget.

MOTION: Holmes/ Kirby/ Approved 5:0

13. **Reconsideration of the City's Temporary Sign Program**

Community Development Director Will Wong presented this item. He said the City's updated sign ordinance will be coming forward soon and will address many of these issues.

Council Member Powers asked for clarification on what types of signage will not be allowed with the new ordinance and the process of noticing the businesses of the changes.

Will Wong addressed the enforcement of the signage ordinance.

Council Member Kirby asked about current complaints coming from the business community.

Richard Sanborn, resident of Auburn, spoke about A-frame signs on the public right of way of the sidewalk. He spoke about signs on public property.

Council Member Nesbitt asked about a façade improvement program that used to be in place.

By **MOTION**, postpone this issue until the City's Updated Sign Ordinance is brought back to Council.

MOTION: Nesbitt/ Powers/ Approved 5:0

REPORTS

14. **City Council Committee Reports**

Council Member Nesbitt reported on the Capital Corridor JPA, the process of negotiating with Union Pacific regarding track and station improvements and the extra train to Auburn.

Council Member Powers reported on the Placer County Economic Development Board meeting, the "Thunder in the Sky" event, the 100 mile Endurance Run Event, and she thanked the Public Works Director and Staff for their work on the Auburn Airport Monument Sign.

Council Member Kirby reported on Auburn Movie Night and asked for volunteers. He also reported on the Placer Nevada Wastewater Authority.

ADJOURNMENT

Mayor Hanley adjourned the meeting, without objection, at 8:35 p.m.

Kevin Hanley, Mayor

Joseph G. R. Labrie, City Clerk

CITY COUNCIL MINUTES
July 9, 2012
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, July 9, 2012 at 6:00 p.m. with Mayor Hanley presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: Keith Nesbitt, J. M. "Mike" Holmes, Bridget Powers, Kevin Hanley

Council Members Absent: William W. Kirby

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Associate Planner Lance Lowe, Public Works Engineer Carie Huff, Administrative Services Director Andy Heath and Police Chief John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

MOTION: Nesbitt/ Powers/ Unanimously approved by voice

1. **Conference with Labor Negotiators:**
(G.C. 54957.6)

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: Auburn Police Officers Association (APOA)

REPORT OUT OF CLOSED SESSION

Mayor Hanley reported on the special closed session held July 5th, 2012 (reflected in those minutes). He reported that in today's closed session, direction was given to the labor negotiator in regards to negotiations with the APOA.

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS

Mayor Hanley announced he will be adjourning the meeting in memory of Annabell McCord and spoke briefly of the positive impact she had on this community.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

1. Warrants

By **RESOLUTION 12-78** approve Warrants # 80034 through 80286 totaling \$1,085,869.47.

2. Minutes

By **MOTION**, approve the minutes of June 11, 2012.

3. Auburn Airport and Business Park Monument Sign – Notice of Completion

By **RESOLUTION 12-79**, authorize the recording of a Notice of Completion for the work performed by Vivid Signs, Inc. for the Auburn Airport and Business Park Monument Sign Project.

4. Auburn Oaks Pump Station Upgrade Project - Award

By **RESOLUTION 12-80**, authorize the Director of Public Works to execute a construction contract with Gabe Mendez, Inc. for the Auburn Oaks Pump Station Upgrade Project in an amount not to exceed \$511,449.40.

5. Hartford IRS Section 457(b) Plan Document Amendment

By **RESOLUTION 12-81**, authorize the City Manager or his designee to sign an amended agreement between the City of Auburn and the Hartford Life Insurance Company as it relates to the addition of a participant loan provision.

6. Authorization to Accept a Staffing for Adequate Fire and Emergency Response (SAFER) FEMA Grant

By **RESOLUTION 12-82**, authorize the Fire Chief to accept a Staffing for Adequate Fire and Emergency Response (SAFER) FMEA Grant in the amount of \$681,900.00 and begin the recruitment process.

7. **Sale of Controlled Firearms**

By **RESOLUTION 12-83**, authorize the Police Department to sell department controlled firearms and firearm related accessories that have been confiscated in accordance with state and federal laws to Gun Parts Sales of Reno, NV.

8. **City of Auburn ADA Transition Plan – Request for Proposals**

By **MOTION**, authorize the Director of Public Works to release the Request for Proposals for the City of Auburn's ADA Transition Plan.

***** End of Consent Calendar *****

By **MOTION**, approve the consent calendar.

MOTION: Holmes/ Nesbitt/ Approved 4:0 (Kirby absent)

Mayor Hanley thanked the Fire Chief and Fire Department for aggressively seeking the SAFER grant. He said this will increase fire safety and emergency response.

9. **Public Comment**

Joseph Labrie, City Clerk, spoke about the secondary camera installed in the City Council Chambers. He said not having that camera angle is a disadvantage to the Auburn Community Television viewers.

PUBLIC HEARING

10. **Weed Abatement Public Protest Hearing**

Fire Chief Mark D'Ambrogi presented this item. He said this is the public hearing to hear any appeals from the listed parcel owners.

Council conducted a Public Hearing for the purpose of declaring public nuisance of those properties that have not complied with the Auburn Municipal Code, City Ordinance, Title IX, Chapter 95.03, "Notices to Remove: Default: Removal by City".

There was no public comment.

By **ABATEMENT ORDER**, authorize the Fire Chief to abate those properties that have been posted and notified as a public nuisance, and have not complied with "Notices to Remove."

MOTION: Nesbitt/ Holmes/ Approved 4:0 (Kirby absent)

11. **A Public Hearing to Consider an Appeal of the Planning Commission's Denial Recommendation of a General Plan Amendment and Rezone and Denial of a Use Permit and Tree Permit at 207, 211 & 215 Brook Road for El Toyon Institute, LLC.**

Associate Planner Lance Lowe presented this item. He reviewed the action of the Planning Commission which resulted in a 2-2 vote, therefore denying the project. He said this appeal allows for the entire project to be considered by the City Council. He reviewed the General Plan Amendment, Rezoning, Use Permit, and Tree Permit. He also reviewed the project descriptions including the type of mediation center, class instruction, related parking and fundraising events. He reviewed the additional conditions of approval.

Council Member Powers asked about the two year review and the process of rezoning back to residential.

Council Member Holmes asked about the timing of the appeal coming before City Council.

Council Member Nesbitt also asked about the reasoning behind the applicant requesting an extension on this hearing. He also asked about the property surrounding the proposed parking area.

Lance Lowe explained that the request was made in writing by the applicant for an extension to work on the additional conditions of approval with neighboring property owners. He said the property surrounding the parking area is the parking lot for the apartments on the adjacent property.

Mayor Hanley asked, with the new zoning on the property, what is the number of homes on the property that would be allowed in the future? He also asked about conditions of approval in regards to fundraising events.

Christina Lawson, Land Use Attorney working with the applicant, spoke about the history of the property, the low impact of the proposed project, the zoning designations of the adjacent properties, and the applicant's outreach to the neighbors.

Terri Batsel, applicant and owner of the property, spoke about her vision for the mediation center. She spoke of all the benefits of a mediation center to the community.

Council Member Holmes asked Christina Lawson about the historic list she referenced.

Council Member Nesbitt asked the applicant to describe a profile of the types of people who would be using the mediation center. He said he would like to see the language regarding fundraisers to reflect an end time of 9 p.m.

Terri Batsel said the mediation center will be used by her church and other churches in the area.

Council Member Powers asked the applicant about the neighbors in opposition.

Christina Lawson said even though some of the neighbors opposed the project, they were pleased with the two-year review of the project. She said not all of the neighbors agreed to fully support the project.

Public comment in support of the mediation project: Victor Roumage, Cheryl Maki, Hillary Grenier, Sandy Amara, Bob Snyder, Sue Dings, Cec Roumage, Betty Jensen, Jason Randall, and Alex Carnahan.

Public comment in opposition of the mediation project: Pam Richards, Judy Melick, and Mary Kozak.

Council Member Holmes said he supports the project and is disappointed by the lack of historical resignation of the property by the City. He said he looks forward to the two year review of the project.

Council Member Nesbitt said the property owners have been very responsible with the upkeep of the property and with addressing neighbors concerns. He said the effects will prove to be minimal once in place. He said he supports the two-year review on the project.

Council Member Powers addressed the possibility of commercial uses in the neighborhood in the future, notifications to neighbors and the permit review in two years. She said she supports the project.

Mayor Hanley said due to the various strict conditions of approval, he doesn't view this project a "commercial" type of activity. He explained how the conditions of approval create a low impact project.

- A. By Resolution 12-84 (**Exhibit D**) uphold the appeal, thereby approving the General Plan Amendment, Rezone, Use Permit and Tree Permit, based upon substantial evidence in the public record, which includes the following actions:
 1. Adoption of a Mitigated Negative Declaration, prepared for the General Plan Amendment, Rezone, Use Permit & Tree Permit as the appropriate

level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Exhibit E**);

2. Adoption of a Mitigation Monitoring and Reporting Plan (MMRP) implementing and monitoring all Mitigation Measures in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Exhibit F**);
3. Adoption of Findings of Fact to uphold the appeal and approve the General Plan Amendment, Rezone, Use Permit, and Tree Permit as presented in the Staff Report; and,
4. Approval of the Use Permit and Tree Permit in accordance with the Conditions of Approval as presented in the Staff Report.

B. By Motion, introduce and hold a first reading, by title only, of an ordinance approving the Rezone from Residential Single Family, Minimum Parcel Size 10,000 to Open Space Conservation (OSC) for ±1.97 acres located at 211 Brook Road (**Exhibit G**);

MOTION: Holmes/Nesbitt/ Approved 4:0 (Kirby absent)

*****Council recessed for 5 minutes*****

COUNCIL BUSINESS

12. City Email Policy

Mayor Hanley introduced this item. He spoke of the recent article "Local Agency Electronic Media Use and California Public Records Law," in *Western City*. He said the City Council should periodically review and revise the City Email Policy to achieve the following policy goals: (1) ensure that citizens can give input in a free and unhindered way on what they think about particular items before Council, (2) ensure public access to public records, (3) make sure the public has confidence that the City is complying with open meeting laws in pursuant to the Brown Act, and (4) make sure the policy continues to except certain information from public disclosure when its protected by state and federal laws. He addressed Council using the city server if communicating with staff for increased transparency.

Council Member Holmes said he agrees that staff needs to develop guidelines on this issue.

Council Member Nesbitt said he agrees that city business should be a public record while he feels if someone emails him personally, privacy

should be respected. He said he would like to see the policy written to define protecting people's first amendment right.

Victoria Connolly, resident of Auburn, said it's the law that electronic mail be kept for at least two years. She spoke of resources stating the fact (she provided a handout). She spoke of ways to handle additional retention of email (also in a handout). She suggested if conversations need to stay personal or private, they could be handled in a fashion other than email.

By consensus of the Council, staff is directed to draft an email policy to be brought back to Council for approval.

13. **June 5, 2012 Election Results**

City Clerk Joe Labrie read the election results in regards to Measure A at the June 5, 2012 election. He said there was a large "vote by mail" turnout.

By **RESOLUTION 12-85**, recite the fact of the Presidential Primary Election, held June 5, 2012, and declare the result and such other matters as provided by law.

MOTION: Holmes/ Powers/ Approved 4:0 (Kirby absent)

14. **League of California Cities Annual Conference**

City Manager Robert Richardson presented this item. He said this item is in regards to the upcoming annual conference and whether a "voting delegate" will be attending.

Council Member consensus was to not send a representative to this conference.

By **MOTION**, do not designate a voting delegate from the City Council.
Holmes/ Nesbitt/ Approved 4:0 (Kirby absent)

REPORTS

15. **City Council Committee Reports**

Council Member Holmes said he would like to see any new elected officials attend the League of California Cities Leadership training.

Council Member Nesbitt reported that Placer County Transportation Planning Agency and the train to Auburn.

Council Member Powers reported on the "Thunder in the Sky" air fair held in Auburn recently.

ADJOURNMENT

Mayor Hanley adjourned the meeting, without objection, at 8:21 p.m., in memory of Annabell McCord.

Kevin Hanley, Mayor

Joseph G. R. Labrie, City Clerk